

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 03-CR-37

JAMES D. LUEDTKE,

Defendant.

ORDER DENYING MOTION FOR RECUSAL

Following a two-day trial in September of 2003, James D. Luedtke was found guilty by a jury of Armed Bank Robbery, Knowingly Brandishing a Firearm During a Crime of Violence, Possession of a Firearm by a Felon, and two counts of Making False Statements in Acquisition of a Firearm, all related to an armed robbery at the Premier Community Bank in Iola, Wisconsin. Luedtke was sentenced to 37 years in the custody of the Bureau of Prisons. The Court of Appeals affirmed Luedtke's conviction in an unpublished order entered on March 10, 2005. Luedtke has now filed a Motion for Sentence Modification pursuant to the First Step Act, 18 U.S.C. § 3582(c)(1)(A)(i) seeking compassionate release. Accompanying his motion for sentence modification is a motion that both I and the Assistant United States Attorney who tried the case recuse ourselves because of bias and prejudice. For the reasons that follow, Luedtke's motion for recusal will be denied.

Federal statutes require that a judge recuse himself if the judge has a bias or prejudice that might call into question his impartiality. 28 U.S.C. § 455. Section 455(a) states: "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which

his impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). Section 455(b) provides that a judge “shall” disqualify himself under certain circumstances, including “[w]here he has a personal bias or prejudice concerning a party, or personal knowledge of the disputed evidentiary facts concerning the proceeding.” *Id.* § 455(b).

Based upon these standards, Luedtke’s Motion to Recuse is denied. Notwithstanding Luedtke’s unsupported accusations, there has been no showing of bias or prejudice in the court’s handling of this case. The only ruling or rulings called into question have been reviewed and affirmed by the Court of Appeals. Luedtke’s accusations that the court has no respect for the Constitution or civil rights are entirely false. Moreover, he has no basis upon which to seek recusal of the Assistant United States Attorney who prosecuted the case. Accordingly, and for the foregoing reasons, the Motion to Recuse is **DENIED**. The Government is directed to file a response to Luedtke’s motion for sentence modification within thirty (30) days of the date of this order, and Luedtke will be allowed fifteen days thereafter to reply. The court will then proceed to decide Luedtke’s remaining motion.

Dated at Green Bay, Wisconsin this 16th day of January, 2020.

s/ William C. Griesbach

William C. Griesbach, District Judge
United States District Court